

THE MARTHA'S VINEYARD COMMISSION

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Minutes of the Special Meeting of July 10, 2003

Held in the Olde Stone Building,
33 New York Avenue, Oak Bluffs, MA

IN ATTENDANCE

Commissioners: Deborah Moore, (Elected – Aquinnah), Megan Ottens-Sargent (Elected – Aquinnah), Jane A. Greene (Appointed – Chilmark), James A. Athearn, Chairman (Elected – Edgartown), John Best (Elected – Tisbury), Christina Brown (Elected – Edgartown), Linda DeWitt (Appointed – Edgartown), Tristan Israel (Appointed – Tisbury), Alan Schweikert, (Appointed – Oak Bluffs), Linda Sibley, (Elected – West Tisbury), Paul Strauss (County Commission Representative), Richard Toole (Elected – Oak Bluffs)

Staff: Mark London (Executive Director), Jennifer Rand (DRI Coordinator), David Wessling (Transportation Planner), Bill Wilcox (Water Resources Planner), Christine Flynn (Affordable Housing/Econ. Development), Jacqueline Campbell (Staff Secretary)

1. AIDYLBURG II (DRI No 569) – PUBLIC HEARING

Commissioners present: J. Athearn, J. Best, C. Brown, L. DeWitt, J. Greene, T. Israel, D. Moore, M. Ottens-Sargent, A. Schweikert, L. Sibley, P. Strauss, R. Toole

Representatives for the Applicant: Carol Lashnits, Director of Island Elderly Housing; Peter Zorzi, architect with Studio One Architects, Doug Hoehn, engineer

There being a quorum present, Christina Brown, Hearing Officer, opened the Public Hearing at 7:45 p.m. and read the Notice of Public Hearing.

1.1 Applicant's Presentation

Peter Zorzi described the project.

- Aidylberg II and Aidylberg I are basically bookend buildings, each building having five units of housing planned for the elderly, although the former has a small community room to the rear of the building. The two buildings share a common parking lot.

- In terms of the site, the Bergstrom farmhouse is located on 36 Wing Road. Approximately 8/10 of an acre has been set aside for the house, the outbuildings and a couple of sheds and garage.
- There is a natural buffer of pine trees that exists between the house and the rear of the lot, which has been subdivided into two parcels; 7/8 of an acre is dedicated to Aidylberg II. The natural buffer would be preserved as much as possible.
- The building siding will be cedar shingles with cedar trim boards. The roofing will be a fiberglass shingle. The overall form has a central element of a shape to resemble agricultural buildings, as requested by the late Marguerite Bergstrom. There is no second floor; the dormers will be used for ventilation and attic space. The building is wood frame construction, slab on grade, firewalls are between all units, and R-30 insulation will be used in the attic and ceiling space.

Doug Hoehn explained that Aidylberg I was approved by the ZBA under a comprehensive permit, and didn't come before the Commission because it was only five units. Building the second related building of five units triggered a DRI Review.

Megan Ottens-Sargent asked if there was a trigger for a 40B in the terms of units. **Carol Lashnits** responded yes. The first plan was approved by the ZBA under a comprehensive permit with some waivers from zoning bylaws.

- **Carol Lashnits** read the ZBA's conditions for Aidylberg I:
 1. *Installation of a buffer on the south and west sides of the property consisting of no less than a chain link fence, approximately 48 inches high and of shrubbery, preferably evergreen spaced well and at least 2 to 3' in height that will grow up to at least 6' in height.*
 2. *Driveway and parking lots be paved.*
 3. *Any deviation from the signed plans presented to the Board of Appeals will not be allowed without written consent from the ZBA.*
 4. *Any oral discussions with reference to the project not substantiated by the signed plans of the written decision will be considered outside the scope of the decision and therefore will not be allowed.*

Peter Zorzi explained that they intend to continue the same type of buffer along the south and east side of Aidylberg II as the ZBA had approved for Aidylberg I. The chain link fence would be on the property line.

Alan Schweikert suggested that the fence should be farther into the property, perhaps 40', to avoid destroying vegetation along the property line and to have the planting on the outside of the fence.

Doug Hoehn said that the vegetation is so dense that he doesn't see the need for the fence to be moved further in on the property, which would limit the use of the property. Moving a fence in 3 or 4' would not be a problem.

Christina Brown reminded the Commissioners that the project would go back to the ZBA that would deal with detailed issues such as the impact on the abutters, as they had for the first project.

Peter Zorzi said that a chain link fence is cheaper and longer lasting than a stockade fence.

Linda Sibley was concerned about a chain link fence along the property line, and suggested that the Board of Appeal's decision was unclear as to which side of the fence the landscaping would go on, and wondered the decision could go back to the ZBA for clarification.

Doug Hoehn said that he would prefer a split rail fence for this project, and he would like to go back to the ZBA and request this change for both projects.

Doug Hoehn stated that the project is in Zone 2 of the Farm Neck Well area requiring 10,000 sq. ft. per bedroom. However, the lot is 34,000 sq.ft. and will have a Title 5 septic system with a Bioclere denitrification system, so that all septic requirements will be met and there will be enough room for the proposed five-unit building. The Board of Health and DEP have approved the use of the denitrification unit. Each building will have its own septic system. There is a drainage area for the roof and parking lot. The Town would not allow tying into the town's sewer line.

Bill Wilcox commented that the town's sewer is a forced sewer main under pressure, so a tie-in is highly unlikely.

Doug Hoehn said that the access road is 22' wide. A 4' width of the access road is reserved for a proposed walkway on the western side, which will be demarcated with a white line.

1.2 Staff Report

Jennifer Rand commented that she had distributed her staff report. Although Island Elderly Housing filed a waiver for minimum setbacks from local zoning, it would appear that the project is in fact conforming.

Bill Wilcox commented that he had revised his notes to include that the project would have a Bioclere System. As Doug Hoehn mentioned, the project will use Town Water. It was unlikely that there would be a drinking water issue. There were no physical constraints on wastewater disposal. The site is within the Farm Pond watershed. At this time, he did not have a good tidal curve of Farm Pond because during the course of data collection, the culvert clogged up and the tidal curve cannot be interpreted to get a good nitrogen-loading limit. This is necessary to determine the nitrogen loading limits. The site is within the zone of contribution of the Farm Neck Well which requires 10,000 sq. ft. of lot area for one bedroom; hence the Bioclere System. This site has good elevation and drainage. He recommended that there be a limited area of managed turf and use of slow-release fertilizer. He had no preference for organic fertilizer with respect to nitrogen loading.

David Wessling summarized his notes by saying there was no parking problem. He proposed the creation of sidewalk in the location proposed by the applicant, and commented that there was an opportunity to tweak the design of the lot, serving both projects, in order to add some shade trees. The level of service on Wing Road was A, and he assumed there would be no delivery trucks during peak hours.

Tristan Israel questioned the comparison with ten single-family houses since that would not conform to zoning. He noted that delivery trucks have an impact on a neighborhood.

Jim Athearn said a sidewalk could be safer. **Linda Sibley** said that a sidewalk would seem urban and there might be other solutions that are more rural as desired by Marguerite Bergstrom.

Linda DeWitt wondered about the safety of locating a driveway in this location. **David Wessling** said there are many nearby driveways and there hadn't been accidents.

1.3 Testimony from Town Boards

There was none.

1.4 Public Testimony

Jill Cheatham lives on Lot 106, west of the project. She commented that at the Zoning Board of Appeals meeting last year, it had been agreed not to have a peak on the building to make it as low as possible. She also said that there is a lot of traffic on the road and it is hard to get out with school traffic. She mentioned that the surveyor told her that the fence was supposed to be 4 to 5 feet inside the property line.

Rene Cheatham, co-owner with her sister, would prefer a stockade fence, rather than a chain link fence, to be more rural in character, and to have shrubbery planted on their side to hide the fence. She is concerned that the building would look like a motel.

Manuel deBettencourt is an abutter on part of the south side of the property. He wanted a fence for security and to keep out trash; he wondered whether it could be green wire. He was in favor of the project.

1.5 Members of the Commission

Jim Athearn said the gambrel roof design, requested by Marguerite Bergstrom, is to make the building look more rural.

Jane A. Greene commented that there was a need for air conditioning and requested that the units be equipped to accommodate our elders in an appropriate manner. **Linda DeWitt** asked what public transportation currently existed for this area. **Carol Lashnits** said that the bus stopped across the street.

Jim Athearn asked whether the proposed cupola would be a functioning ventilating unit. **Peter Zorzi** said that it would.

Richard Toole asked what color would the roof shingle be. **Peter Zorzi** said the color had not yet been selected but was usually a slate color. **Richard Toole** suggested that the trim be stained or left natural, rather than painted.

Tristan Israel asked about supply trucks. **Carol Lashnits** said that there would be a propane gas delivery truck; the maintenance staff had small trucks; staff had regular vehicles. The residents were totally independent people and therefore Island Elderly Housing was not providing many services. Five of the residents are expected to use cars, and remainder to use public transportation. She commented that there was a lot of car-pooling at Woodside, and perhaps this would occur at Aidylberg. The post office would deliver the mail.

Linda Sibley suggested that the cupola could look more rural and less commercial if it was cruder. **Peter Zorzi** said that the cupola was not prefabricated, and was custom made in wood with a copper roof. **Jim Athearn** noted that cupolas on barns are traditionally used in the United States not only for ventilation but also for decoration. A flat roof instead of a curved

one would be more appropriate. **Richard Toole** suggested that the cupola on the Oak Bluffs School is copied from the old school and could serve as a model.

1.6 Applicant's Conclusion

Peter Zorzi stated that he intends to put in a striped area for parking and believes he can design landscaping in the parking area. The fence is shown 3 to 4' within the property line with landscaping on the abutters side. There is a recess in the far corner of the parking lot to accommodate a dumpster with bollards and a stockade fence surrounding it. **Carol Lashnits** said the maintenance people would be on the site on a daily basis.

Richard Toole asked whether there could be a gate in the fence on the side facing the school. **Linda Sibley** said that the Commission doesn't need to comment on the presence of a gate and if we require a fence, we should clearly say that the issue of the gate is up to the applicant.

Mark London suggested a green chain link fence totally enclosed within vegetation is an effective way of providing a security enclosure within a natural-looking buffer. **Carol Lashnits** commented that they had discussed a green fence with a lot of screening.

Peter Zorzi said that he was concerned about the expense of a sidewalk and suggested a raised bituminous berm that would help stop people from walking in the road.

Linda DeWitt asked about plans for the existing house. **Carol Lashnits** said they have no plans yet; it will probably remain as a single-family house.

The Hearing adjourned at 9:10 p.m.

Christina Brown declared a recess to the meeting at 9:10 p.m. and resumed the meeting at 9:28 p.m.

2. WOODSIDE VILLAGE VI (DRI No 568) – PUBLIC HEARING

Commissioners present: J. Athearn, J. Best, C. Brown, L. DeWitt, J. Greene, T. Israel, D. Moore, M. Ottens-Sargent, A. Schweikert, L. Sibley, P. Strauss, R. Toole

Representatives for the Applicant: Carol Lashnits, manager of Island Elderly Housing; Peter Zorzi, architect with Studio One Architects, Doug Hoehn, engineer

2.1 Applicant's Presentation

Christina Brown noted that Woodside V had been approved by the Commission but has not been built, and asked the applicant for a short summary of the Woodside VI project, which is located right next to Woodside V.

Peter Zorzi explained that the building is for a nine-unit elderly housing project in an L-shaped format. This is a gabled-roof structure with a number of dormers, and with a small sitting space off the main hallway to the rear of the main entry. The building has the basic amenities for senior citizens' housing, namely; a remote entry door, infrared sensors on the handicap faucets and sinks, double-hung windows, ceiling fans, and a mechanical ventilation system. It is similar in construction to Hillside III. There is lighting at the entrance of each of the units;

two on the Woodside V property and two on the Woodside VI property similar to those used on Hillside III.

Carol Lashnits commented that this is the last project on Island Elderly Housing properties.

Doug Hoehn stated that Woodside V and VI would share a septic and Bioclere denitrification system. There are leeching basins for the roof and parking. The buildings are as close to the common property lines as possible. This is about a 23,000 sq. ft. lot. There was a concern about landscaping.

Carol Lashnits stated that Island Elderly Housing's attorney called John Bradford, Chairman of the Planning Board, about how close the project could be to the Ancient Way. She received a copy of the town's bylaws that state that the width of the buffer can be reduced in certain circumstances. She proposed that the setback from the Ancient Way be 25' rather than 50' as required in the bylaw. In the case of Woodside IV, the Planning Board waived the requirement and she did not think it would be an issue with the Planning Board in this case. She has requested that Peter Zorzi look at the vegetation there in order to minimize cutting during construction and to provide dense screening between the building and the Ancient Way afterwards.

Paul Strauss expressed concern about the proposed screening along the buffer to minimize awareness of the building.

2.2 Staff Report

Jennifer Rand said that she had distributed her staff report. She summarized the DCPC regulations saying that the requirement for a 50' buffer may be waived by the Planning Board upon finding that mitigation measures, whether by replacement landscaping, building orientation or other site specific consideration, benefit trail users and the general public and do not compromise the purpose of the district.

Megan Ottens-Sargent noted that since it a comprehensive permit, the ZBA would not be able to deal with the waiver as would the Planning Board. Since it is a DRI, the Commission should look at this.

John Best noted that the construction is slab on grade with insulation only four feet in from the perimeter with respect to condensation. **Peter Zorzi** said this is no problem at or above grade.

Bill Wilcox summarized his staff report. He noted that the site is in the Lagoon Pond watershed. There are no physical constraints on the disposal of wastewater. Running the nitrogen loading at 1.1 people per unit the result is 12.6 kg with a Bioclere system for the sewage or 3.03 ppm, which exceeds the limit within the DCPC by 1%. However, the 1.1 is only an average so if it was only one per unit, it would meet the limit. He recommended low maintenance landscapes, minimal turf area; the use of slow release nitrogen fertilizer would be appropriate.

David Wessling said that there would be no traffic problem with a delay change of only one or two seconds. He mentioned the desirability of a sidewalk from the project to the road. **Carol Lashnits** offered to create a paved path.

Tristan Israel agreed that this project is not much of a problem but noted that every small change in traffic adds to the cumulative impact.

Megan Ottens-Sargent asked whether the setback from the Ancient Way could be greater. **Doug Hoehn** said that it was impossible, without reducing the number of units, since it is already on the property line.

Linda Sibley said that, given the size of the building, a greater setback would not make much of a difference.

Paul Strauss asked why the requirement of the 50' buffer should be waived. **Peter Zorzi** said that HUD only approves 5 or 9 unit buildings. **Megan Ottens-Sargent** said that here, the benefit is totally about affordable housing; she would be comfortable waiving that in this case.

Linda Sibley asked why each project is on a separate lot. **Peter Zorzi** said that this is a HUD requirement. **Carol Lashnits** added that this was related to funding.

2.3 Applicants Conclusion

Peter Zorzi stated that there would be a paved path from the project to the road and supplementary natural landscaping of native materials to enhance the buffer.

Christina Brown closed the Public Hearing at 9:56 p.m. and noted that the public record will remain open for two weeks from this date until 4 p.m.

Jane A. Greene left the Meeting at 9:56 p.m.

3. JE&T CONSTRUCTION (FAIRWINDS) – CONCURRENCY REVIEW

Commissioners present: J. Athearn, J. Best, C. Brown, L. DeWitt, T. Israel, D. Moore, M. Ottens-Sargent, A. Schweikert, L. Sibley, P. Strauss, R. Toole

Christina Brown read the report from July 7, 2003 LUPC meeting.

The Martha's Vineyard Commission has been asked by Tom Richardson, Agent for the Fairwinds proposed development in Vineyard Haven, to consider a modification to his previous Martha's Vineyard Commission approval. The proposed modification is in two Parts:

- 1. Allow access to the property over an easement on property of a neighbor to connect Greenwood Avenue and Herring Creek Road to the Fairwinds property.*
- 2. Reduce the total number of housing units from 14, as approved, to 10, with a distribution between market rate (about \$475,000), moderate (about \$225,000) and affordable (available to households whose income is not more than 80% of Dukes County median (presently \$48,900 for a household of four) as shown on the attached sheet (see project file).*

The LUPC recommendations, reached by consensus, are as follows.

Access Over Easement Modification Request:

- 1. Does not need to go to Public Hearing. The modification clarifies Fairwind's legal right to use the access.*
- 2. Should be approved as requested at this time.*

Reduction in Number and Kind of Units Modification Request:

- 1. Does not need to go to Public Hearing. for the reason that density of the subdivision was a major issue at the Public Hearings, and the Commission urged lower density during hearings and deliberations (from 24 to 14).*
- 2. The merits of the requested modification should not be acted upon the Commission at this time, but tabled, to be taken up at public meeting, not Public Hearing, when asked by the Applicant.*

Christina Brown clarified that the matter before the Commission tonight is only the question of whether or not the Commission would require the Applicant to go to Public Hearing.

Tristan Israel said there were still many questions and wanted to ensure that there would be no end run around the public process.

Linda Sibley said that all these issues were thoroughly vetted in the Public Hearing. The Commission would have to deliberate again, but that we had enough public input to judge the proposal, should the Tisbury Zoning Board of Appeals ask to change the plan.

Megan Ottens-Sargent commented that the density hasn't necessarily been lowered, and wondered if it stayed at 14, and the access was granted, where would the Commission be in terms of concurrence.

Jennifer Rand explained that originally the Applicant had asked for the modification of reduction in density because when he got back to the ZBA he wanted to have the ability to negotiate. However, on further discussion, he said that he still wants to build 14. He does not want to drop it to 10. But he also does not want to get to the point where the ZBA wants him to drop it to 12 or 10 units, but he doesn't know if he can because the Commission approved 14. He has felt stymied and wanted to know that he would be able to come back to the Commission for a revision in the number of units.

James Athearn commented that the issue is, if this situation continues to develop, Could the Commission ensure the applicant that if a reduction is sought, the Commission would not require a Public Hearing.

Tristan Israel commented that there is a lot of concern in the neighborhood about this project.

Linda Sibley commented that these issues were thoroughly vetted at the Public Hearing and the Commission's previous discussion, and furthermore there is no getting around the public process in the Town of Tisbury. The neighbors will also have ample opportunity to address this revision before the Board of Appeals. She thinks, should the Board of Appeals ask for a reduction, that the Commission will then have to make the decision as to whether or not that changes the benefits and detriments analysis, and whether the Commission is willing to allow it. But, given the amount of time that has been spent at previous Public Hearings, she does not think it would serve anyone for the Commission to reopen the Public Hearing. She believes the Commission can make that commitment now. It has enough information and public input to be able to judge should the Board of Appeals change the plan. **Tristan Israel** asked, what would the density be on that property if this project weren't a 40B?

Megan Ottens-Sargent said that in the current application, there are three moderate and four affordable units versus one moderate and four affordable that the applicant now proposes. A market-rate house was originally, she believed over \$400,000. She was concerned about the site layout, should the density be reduced. **Mark London** reminded the Commissioners that the

current purpose was not to discuss the merits of the case, that there was no proposal before the Commission to change it. The only question is, is the proposal substantially the same. However, the only things that would modify it would be the number of units, the nitrogen loading, and the number of affordable units. Were those three issues adequately discussed during the Public Hearing so that when and if the time comes the Commissioners have adequately vetted on this.

Jennifer Rand commented that the request for a change was put forward to me. The easement somehow became a more discreet issue than the LUPC meeting meant it to be. She said it was not clear that a concurrency vote was needed, since it was essentially the same as the approved design.

Linda Sibley stated that the design was slightly different.

Linda Sibley moved and it was duly seconded that the slight change to the access easement was not significant enough to require a Public Hearing.. Voice Vote: In favor: 8. Opposed: 1. Abstentions: 2: The motion carried.

John Best moved and it was duly seconded to allow access to the property over an easement on the property of a neighbor, as proposed, to connect Greenwood Avenue and Herring Creek Road to the Fairwinds property. Voice Vote: In favor: 8. Opposed: 1. Abstentions: 2: The motion carried.

Linda Sibley moved and it was duly seconded that the applicant would not be required to go to a Public Hearing, should they request a reduction in the number of units, noting that the merits of the question are not being are not be discussed at this time. Voice Vote: In favor: 8. Opposed: 0. Abstentions: 3: The motion carried

4. UPCOMING LUPC MEETINGS AND SITE VISITS

Jennifer Rand announced the following site visits and LUPC meetings:

- Site visit of Jenney Lane on Monday, July 14, 2003, at 4:30.p.m. This will be followed by a LUPC meeting regarding Plum Bush Point, at 5:30 p.m., for a modification request to allow a tennis court.
- Site visit of the Homes at Southern Woodlands, Saturday, July 19, 2003, at 8:00 a.m. The site will not be staked, and is only open for the Commissioners and elected officials from Oak Bluffs.
- LUPC Meeting, August 4, 2003, 5:30 p.m., Continued Pre-Public Hearing CK Associates.

5. ADOPTION OF MINTUES

Megan Ottens-Sargent asked that her comment about an extension of town water leading to suburbanization be added in the minutes of May 29, 2003. The Commission agreed.

Tristan Israel moved and it was duly seconded to adopt the minutes of May 29, 2003 as amended. Voice vote: In favor: 10. Opposed: None. Abstentions: 1. The motion passed.

Tristan Israel moved and it was duly seconded to adopt the minutes of June 19, 2003. Voice vote: In favor: 10. Opposed: None. Abstentions: 1. The motion passed.

6. OTHER BUSINESS

- **Mark London** stated there are no Public Hearings for the next three weeks and that the next LUPC meeting was scheduled for August 11, 2003. He suggested that there be no meeting on July 17th and to have a meeting on July 24th.

Linda Sibley moved and it was duly seconded to change the Regular Commission Meeting from the July 17, 2003, to July 24, 2003. Voice vote. In favor: Unanimous. Opposed: None. Abstentions: None.

- **Mark London** commented that Douglas Foy, Chief Deputy of the Commonwealth, would be speaking at the Sheriff's Meadow dinner on July 21, 2003, from 5 to 7 p.m., and that he invited Mr. Foy to the Commission Offices, in the afternoon, for a very brief visit.
- **Mark London** announced that there would be a Transportation Forum on July 23, at 7:30 p.m., on the Regional Transportation Plan, preceded by a presentation on the roundabout at 6:30 p.m. He proposed the possibility of the Martha's Vineyard Commission and the Selectmen of the Town of Oak Bluffs to co-host a public information session, from 6:30 to 7:30 p.m., at the Commission Office, on the proposal for a roundabout at the blinker. **Linda Sibley** suggested a different venue for the meetings in case there is a large crowd.

Christina Brown moved and it was duly seconded to go along with proposal to hold two transportation meetings on July 23, 2003. Voice vote. In favor: Unanimous. Opposed: None. Abstentions: None.

- **Mark London** distributed a copy of the recent court decision and the settlement agreement on the Wampanoag Tribal zoning issue, and stated that the Commission would soon be asked to join the appeal.
- **Tristan Israel** mentioned a proposal by MassHighway to build a temporary replacement for the drawbridge. **Mark London** noted that there would be a technical working session on the Sengekontacket Pond Inlet bridges.

The Meeting adjourned at 10:55 p.m.

Chairman

Date

Clerk-Treasurer

Date